

ORDINANCE NO. 5422

AN ORDINANCE of the City Council of the City of Bremerton, Washington, amending the Bremerton Municipal Code Title 20 related to Boundary Line Adjustments and Lot Size Averaging.

WHEREAS, through practical use and application of the Zoning Code the need for modification has been identified; and

WHEREAS, the City of Bremerton (“City”) has established a procedure for amending the Zoning Code in Title 20.18.020(d) of the Bremerton Municipal Code (“BMC”), which requires amendments to the Zoning Code to be both consistent with the goals and policies of the Comprehensive Plan and to be consistent with other applicable rules and regulations; and

WHEREAS, these amendments are consistent with the City’s Comprehensive Plan, County Wide Planning Policies, the State Growth Management Act, and other applicable regulations and ordinances; and

WHEREAS, these amendments develop a City process to review and provide a decision on Boundary Line Adjustments (BLA); and

WHEREAS, the Washington State Legislature passed House Bill 1923, which provides incentivized recommendations for jurisdictions to amend local zoning codes relating to housing, with one recommendation to allow lot size averaging in all zoning districts where single-family homes are permitted; and

WHEREAS, the Low-Density Residential (R-10) and Medium-Density Residential (R-18) zones are the zoning districts where single-family homes are permitted and with minimum lot sizes that would benefit from Lot Size Averaging; and

WHEREAS, these amendments to BMC 20.60.065 entitled Allowable Density and Lot Area within the R-10 zone and BMC 20.78.065 entitled Allowable Density and Lot Area in the R-18 zone would allow lot size averaging in all zoning districts where single-family homes are permitted, and thus complying with House Bill 1923; and

WHEREAS, the City has received grant funding under the provisions of House Bill 1923 to pursue these zoning code amendments; and

WHEREAS, on July 20, 2020, the Planning Commission conducted a workshop on the proposed amendments related to Boundary Line Adjustments; and

WHEREAS, on January 22, 2021, the planning Commission conducted a workshop on the proposed amendment related to Lot Size Averaging; and

WHEREAS, on March 16, 2021 for Lot Size Averaging's amendments, a State Environmental Policy Act ("SEPA") Determination of Nonsignificance ("DNS") was issued for the proposed action with a comment period, and no appeals were filed; and

WHEREAS, on March 24, 2021 for Boundary Line Adjustment's amendments, a State Environmental Policy Act ("SEPA") Determination of Nonsignificance ("DNS") was issued for the proposed action with a comment period, and no appeals were filed; and

WHEREAS, March 11, 2021 for Lot Size Averaging's amendments and March 22, 2021 for Boundary Line Adjustment's amendments, the proposed Zoning Code amendments were circulated to Department of Commerce and the State Agencies for the requisite review and comment period; and

WHEREAS, on April 9, 2021, the public was notified by a legal advertisement in the Kitsap Sun of the opportunity to make comment and participate in the public hearing held by the Planning Commission; and

WHEREAS, on April 19, 2021, the Planning Commission conducted two public hearings on the Zoning Code amendments and formulated two recommendations to forward the amendments for City Council consideration; and

WHEREAS, the amendments would develop a new process for the City to review and provide a decision for BLAs, and Rate Table C, per Ordinance 5405, does not identify the cost for BLA permitting; and

WHEREAS, until such time that the City annually updates its Rates and Fees, the City would charge an hourly review as identified by Rate Table C, or as hereby amended, for the time it took to process, review, issue a decision for the BLA permit; and

WHEREAS, on May 27, 2021, the public was notified by a legal advertisement in the Kitsap Sun of the opportunity to make comment and participate in the public hearing on June 2, 2021 by the City Council; and

WHEREAS, on June 2, 2021, the City Council conducted a public hearing and considered all testimony prior to their decision; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF BREMERTON, WASHINGTON,
DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. *Findings and Recitals Incorporated.* The findings and recitals set forth above are hereby adopted and incorporated herein by this reference.

SECTION 2. *Planning Commission Findings.* The findings and conclusions adopted by the Planning Commission attached hereto as **Exhibit A** and **Exhibit B** are adopted and incorporated as if set forth herein in full.

SECTION 3. Chapter 20.12 of the Bremerton Municipal Code entitled “Land Division” is hereby amended by adding Section 20.12.175 to read as follows:

20.12.175 BOUNDARY LINE ADJUSTMENTS.

(a) Purpose. The purpose of this section is to provide procedures and criteria for the review and approval of adjustments to boundary lines of legal lots or tracts in order to rectify defects in legal descriptions, to allow the enlargement of lots to improve or qualify as a building site, to achieve increased setbacks from property lines or sensitive areas, to correct situations wherein an established use is located across a lot line, or for other similar purposes. A boundary line adjustment shall not be used to subdivide land, i.e., it shall not create any new or additional lot, tract or parcel. The boundary line adjustment is not for the purpose of avoiding public improvement requirements that would be associated with a replat or other new land division approval.

(b) Procedure.

(1) A request for a Boundary Line Adjustment is processed as a Type I Director’s decision pursuant to Chapter 20.02 BMC.

(2) Boundary line adjustments may also be accomplished as part of a plat or short plat.

(3) At the Director’s discretion, a Site Plan Review or separate permit may be required prior to the submittal of a BLA or concurrently with the BLA permit.

(c) Application submittal requirements. An applicant shall submit a complete boundary line adjustment application to the city. The following shall accompany a complete application for the purposes of this chapter:

(1) Evidence of ownership or authorization from the property owner to apply.

(2) A site plan of both the existing and proposed property line configuration that contains the following:

(i) A vicinity map that clearly marks the site in relation to the nearest major streets, roads, and waterways in the area;

(ii) A map at a scale of not less than one inch to fifty feet which depicts the existing property configuration, including all lot lines, dimensions and lot area.

(iii) The location and dimensions of all structures/improvements existing upon the affected lots and the distance between such structures/improvements and the existing and proposed boundary lines.

(iv) The location and dimensions of any easements within or adjacent to the affected lot(s).

(v) The location, dimensions and names of all existing or platted street rights-of-way, whether public or private, within or adjacent to the affected lots.

(vi) The location of all existing and proposed water, sewer and storm drainage facilities, on-site wastewater disposal systems, drainfields, and wells.

(vii) The location of access to all affected lots.

(viii) A north arrow and bar scale.

(3) The original legal descriptions of all affected properties, together with new separate legal descriptions for each parcel resulting from the adjustment.

(4) All drawings and legal descriptions are required to be prepared, stamped and dated by a licensed land surveyor as set forth in BMC 20.12.070. The surveyor shall confirm the following:

- (i) That the boundary line adjustment does not violate any covenants, conditions and restrictions (CCRs), deed restrictions, common spaces, easements, or development agreements pertaining to the affected properties; and
- (ii) All person with interest in the properties are represent in the request.
- (5) A title report prepared not more than 60 calendar days prior to application submittal and prepared by a title company licensed in the state of Washington, may be required.
- (6) If an existing on-site sewage (septic tank) disposal system and/or well will continue to be used on an affected property after the boundary line adjustment, and/or if a new on-site sewage disposal system or well is proposed for an affected property where city code does not require connection to the city's municipal sewer and/or water system, the applicant shall provide written verification from the Kitsap Public Health District that the proposed lot is adequate to accommodate an on-site sewage disposal system and/or well.
- (d) Decision criteria. The following criteria shall be used to review and approve boundary line adjustments:
 - (1) The boundary line adjustment shall not result in the creation of any additional lot, tract, parcel, site, or division.
 - (2) The boundary line adjustment shall not be approved if it avoids public improvement requirements, such as utility or right-of-way improvements, that would be associated with a land division approval.
 - (3) The lots or parcels resulting after the boundary line adjustment shall meet all dimensional requirements specified for the applicable zone as set forth in Title 20, and other applicable regulations.
 - (4) No lot, use, or structure is made nonconforming or more nonconforming than that which existed at the time of application and are subject to the provisions of BMC 20.54.
 - (5) Will not diminish or impair existing or future drainage, water supply, sanitary sewage disposal (including on-site sewage disposal) or legal access.
 - (6) Shall not be reconfigured or adjusted which would render access for vehicles, utilities, fire protection, or existing easements impractical to serve their purpose or to allow maintenance/access.
 - (7) Shall not violate or be inconsistent with any conditions of approval for a previously filed land use action, subdivision, short plat, or binding site plan deemed relevant by the Director.
 - (8) Shall not result in a lot having more than one land use designation and/or zoning; or result in being bisected by any special overlay.
 - (9) Shall not result in a lot, or lots, not wholly located within the city limits.
 - (10) Shall not involve lots that do not have a common boundary
 - (11) Shall not result in a lot which would be so constrained by topography, critical areas or buffers, unusual shape, or other site conditions that a reasonable building site cannot be obtained except through a variance, reasonable use exemption from a critical areas permit, or other special exemption from the city's zoning, land use or critical area regulations.
 - (12) Shall not affect the boundaries of any lot, tract, parcel or division that is the subject of a current, unresolved city code enforcement action, code violation notice, or stop work notice; except as provided under circumstances where the Director, Hearing Examiner or judge deems a boundary line adjustment provides an appropriate resolution.
 - (13) Any adjustment of boundary lines must be approved by the department prior to the transfer of property ownership between adjacent legal lots;

(14) When an adjustment of boundary lines requires a modification of access, those modifications shall be approved by the City Engineer through a separate permit. Any adjusted lot shall contain no more than six separate lot lines, which are straight lines except when an irregular line is caused by an existing right of way or existing lot line.

(e) Final Approval and Recording.

(1) Prior to recording, the applicant shall submit boundary line adjustment drawing(s) for approval by the City. The City will provide a decision in writing, to be provided to the Kitsap County Auditor's office.

(2) Prior to final approval, documentation authorizing the transfer of property ownership shall be placed on the original boundary line map along with the legal descriptions of those portions of land being transferred when lots are under separate ownership. Lot lines within lots under the same ownership will be adjusted upon the recording of the boundary line adjustment.

(3) A boundary line adjustment does not become effective until all documents are recorded with the Kitsap County auditor. The boundary line adjustment shall be recorded within one hundred eighty days of the notice of decision date or be null and void. The applicant shall be responsible for submitting all final documents for recording. The applicant shall provide the City the Auditor File Number within 7-days of recording, and a copy of the recorded boundary line adjustment within 30-days of recording.

SECTION 4. Chapter 20.60 of the Bremerton Municipal Code entitled "Low Density Residential (R-10)" zone is hereby amended by revising Section 20.60.065 entitled "Allowable Density and Lot Area" to read as follows:

20.60.065 ALLOWABLE DENSITY AND LOT AREA.

The purpose of this section is to establish compatible levels of density within existing neighborhoods. The intent is to allow infill residential development. The following density and lot area standards are applicable to development within the zone:

- (a) Minimum Density. The minimum required density is six (6) dwellings per acre.
- (b) Maximum Density. The maximum allowed density is ten (10) dwellings per acre.
- (c) Maximum Lot Area. The maximum lot area is seven thousand two hundred sixty (7,260) square feet, with the following exceptions:

(1) The lot area may be modified through the approval of a residential cluster development pursuant to BMC 20.58.060;

(2) One (1) lot within a proposal for a division of land may exceed seven thousand two hundred sixty (7,260) square feet, provided the remaining lots do not exceed the seven thousand two hundred sixty (7,260) square foot maximum lot size; and

(3) A flag lot that complies with the requirements in BMC 20.44.100 may exceed seven thousand two hundred sixty (7,260) square feet, provided the total area of the flag lot does not exceed ten thousand eight hundred ninety (10,890) square feet.

(d) Minimum Lot Area. The minimum allowed lot area is four thousand three hundred (4,300) square feet.

(e) Exception to Minimum Lot Areas.

(1) The minimum lot area may be modified through the approval of a residential cluster development pursuant to BMC 20.58.060, provided the development complies with the maximum density requirement set forth in subsection (b) of this section.

(2) When a new subdivision is proposed, the size of lots in land division may be reduced below the minimum lot size provided all the following are met:

(i) The overall average of the proposed lots do not exceed the permissible maximum density.

(ii) All lots that are smaller than the minimum lot size shall demonstrate that they are developable by showing code compliance with such items as required parking, lot coverage, setbacks, stormwater compliance, etc.

(iii) The platting documents shall include documentation of allowed uses and language that ensures maximum density is not exceeded.

(iv) If the land division is submitted in phases of development, each phase submitted for approval shall meet these provisions.

SECTION 5. Chapter 20.78 of the Bremerton Municipal Code entitled “Medium Density Residential (R-18)” zone is hereby amended by revising Section 20.60.065 entitled “Allowable Density and Lot Area” to read as follows:

20.78.065 ALLOWABLE DENSITY AND LOT AREA.

The purpose of this section is to establish compatible levels of density within existing neighborhoods. The intent is to allow infill residential development. The following density and lot area standards are applicable to development within the zone:

(a) Minimum Density. The minimum required density is six (6) dwellings per acre.

(b) Maximum Density. The maximum allowed density is eighteen (18) dwellings per acre.

(c) Maximum Lot Area. The maximum lot area is seven thousand two hundred sixty (7,260) square feet, with the following exceptions:

(1) The lot area may be modified through the approval of a residential cluster development pursuant to BMC 20.58.060;

(2) One (1) lot within a proposal for a division of land may exceed seven thousand two hundred sixty (7,260) square feet, provided the remaining lots do not exceed the seven thousand two hundred sixty (7,260) square foot maximum lot size; and

(3) A flag lot that complies with the requirements in BMC 20.44.100 may exceed seven thousand two hundred sixty (7,260) square feet, provided the total area of the flag lot does not exceed ten thousand eight hundred ninety (10,890) square feet.

(d) Minimum Lot Area. The minimum allowed lot area is two thousand five hundred (2,500) square feet.

(e) Exception to Minimum Lot Areas.

(1) The minimum lot area may be modified through the approval of a residential cluster development pursuant to BMC 20.58.060, provided the development complies with the maximum density requirement set forth in subsection (b) of this section.

(2) When a new subdivision is proposed, the size of lots in land division may be reduced below the minimum lot size provided all the following are met:

(i) The overall average of the proposed lots do not exceed the permissible maximum density.

(ii) All lots that are smaller than the minimum lot size shall demonstrate that they are developable by showing code compliance with such items as required parking, lot coverage, setbacks, stormwater compliance, etc.

(iii) The platting documents shall include documentation of allowed uses and language that ensures maximum density is not exceeded.

(iv) If the land division is submitted in phases of development, each phase submitted for approval shall meet these provisions.

SECTION 6. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance, including but not limited to, the correction of scrivener, clerical, typographical, and spelling errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 7. Severability. If any one or more sections, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 8. Effective Date. This ordinance shall take effect and be in force ten (10) days from and after its passage, approval and publication as provided by law.

PASSED by the City Council the 2 day of June, 2021.



KEVIN GORMAN, Council President

Approved this 7TH day of June, 2021.



GREGORY WHEELER, Mayor

ATTEST:

APPROVED AS TO FORM:



ANGELA HOOVER, City Clerk



ROGER A. LUBOVICH, City Attorney

PUBLISHED the 4 day of June, 2021.
EFFECTIVE the 14 day of June, 2021.
ORDINANCE NO. 5422

FINDINGS AND CONCLUSIONS OF THE CITY OF BREMERTON PLANNING COMMISSION

Summary:

The proposed amendments to the Bremerton Municipal Code (BMC) to develop a City process for Boundary Line Adjustments by creating a new section: BMC 20.12.175

I. FINDINGS OF FACT

1. Project Description:

The proposed Zoning Code amendments would allow for City departments to review Boundary Line Adjustments within the City of Bremerton.

This proposal does not impact, nor change, the regulations for Land Division as identified in current code.

2. Procedural History:

- 2.1 Planning Commission Workshop: July 8, 2020
- 2.2 Washington State Department of Commerce Notice: March 22, 2021
- 2.3 SEPA Threshold Determination DNS: March 24, 2021
- 2.4 Notice of Public Hearing: March 25, 2021
- 2.5 Planning Commission Public Hearing: April 19, 2021

3. Public and Agency Comment:

- 3.1 None provided at the Workshop
- 3.2 At the Planning Commission Public Hearing on April 19, 2021, the following testimony was provided: None

4. SEPA Determination:

A Determination of Non-Significance was issued on March 24, 2021, no comments or appeals were filed.

5. Consistency:

Text amendments to Title 20 shall meet the decision criteria outlined in BMC 20.18.020(d). The Planning Commission may recommend, and the City Council may adopt or adopt with modifications, an amendment to Title 20 if the criteria outlined below are met.

- (1) It is consistent with the goals and policies of the comprehensive plan;

Analysis: The proposed amendments continue to uphold the objectives and goals of the Comprehensive Plan, and implement the following policies:

- Goal LU1. Plan for Bremerton's population and employment growth.
- Policy LU1(B): Coordinate Bremerton's growth consistent with the Kitsap Countywide Planning Policies and the Puget Sound Regional Council's Vision 2040, and state requirements.
- City Services Goal CS1: Provide municipal services that enhance the quality of life in Bremerton.
- Policy CS1(B): Educate the citizenry about City services and citizen responsibilities.
- Goal CS4: Provide safe and reliable utility service to citizens, while balancing economic, aesthetics and environmental factors.

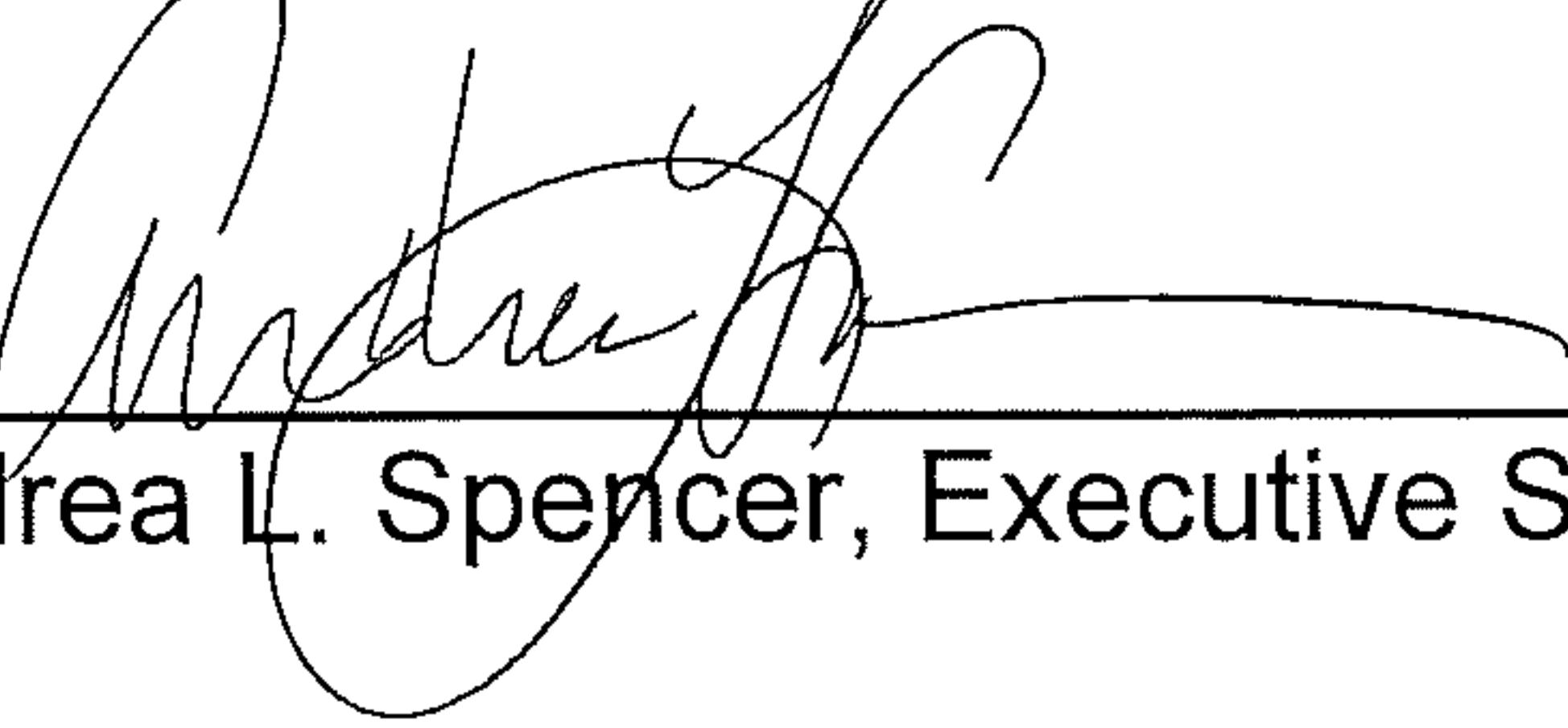
(2) It does not conflict with other City, state and federal codes, regulations and ordinances.

Analysis: The proposed amendments do not conflict with any other regulations.

II. CONCLUSIONS & RECOMMENDATION

Based on the findings above, the Planning Commission concludes that the proposed amendments to the Bremerton Municipal Code Title 20 Land Use Chapter related to Land Division meets the requirements in BMC 20.18.020(d) text amendments, and therefore recommends to the City Council, the adoption of amendments to Title 20.

Respectfully submitted by:



Andrea L. Spencer, Executive Secretary



Nick Wofford, Planning Commission Chair

FINDINGS AND CONCLUSIONS OF THE CITY OF BREMERTON PLANNING COMMISSION

Summary:

The proposed amendments to the Bremerton Municipal Code (BMC) to allow Lot Size Averaging in the Low- and Medium-Density Residential Zones.

I. FINDINGS OF FACT

1. **Project Description:**

The proposed Zoning Code amendments would allow lot size averaging within the City's BMC to the two zones that identify minimum lot sizes: Low- and Medium Density Residential Zones (BMC 20.60 and BMC 20.78). This code would allow future development to have some flexibility in their proposed minimum lot sizes when subdividing or a boundary line change, when the overall project continues to meet the underlying zoning density.

This proposal does not impact, nor change, the existing underlying zoning density as identify in current code.

2. **Procedural History:**

- 2.1 Planning Commission Workshop: January 22, 2021
- 2.2 Washington State Department of Commerce Notice: March 11, 2021
- 2.3 SEPA Threshold Determination DNS: March 16, 2021
- 2.4 Notice of Public Hearing: April 9, 2021
- 2.5 Planning Commission Public Hearing: April 19, 2021

3. **Public and Agency Comment:**

- 3.1 None provided at the Workshop
- 3.2 At the Planning Commission Public Hearing on April 19, 2021, the following testimony was provided: none

4. **SEPA Determination:**

A Determination of Non-Significance was issued on March 16, 2021, no comments or appeals were filed.

5. **Consistency:**

Text amendments to Title 20 shall meet the decision criteria outlined in BMC 20.18.020(d). The Planning Commission may recommend, and the City Council may adopt or adopt with modifications, an amendment to Title 20 if the criteria outlined below are met.

- (1) It is consistent with the goals and policies of the comprehensive plan;

Analysis: The proposed amendments continue to uphold the objectives and goals of the Comprehensive Plan, and implement the following policies:

- Policy LU1(B): Coordinate Bremerton's growth consistent with the Kitsap Countywide Planning Policies and the Puget Sound Regional Council's Vision 2040, and state requirements.
- Policy LU4(C): Provide land use regulations that give opportunities for the community to have fair access to livelihood, education, and resources.
- Housing Vision: To encourage the growth of Bremerton by strategically locating a wide variety of housing types throughout the City in a way that protects the environment and fosters community health.
- Housing Goal H2: Encourage the development of a variety of new housing options and densities to meet the changing needs of Bremerton's residents.

- Policy H2(C): Supporting infill development and increased densities.
- Housing Goal H3: Support access to quality and affordable housing for all Bremerton residents.
- Policy H3(A): Provide opportunities for the production of new housing for all incomes, ages, and family types through infill by stimulating growth of non-traditional housing types such as townhomes, carriage units, accessory dwelling units, and duplexes in locations where they will seamlessly infill into the fabric of the existing neighborhoods.
- Policy H3(E): Eliminate unnecessary regulatory impediments to the development of affordable housing.

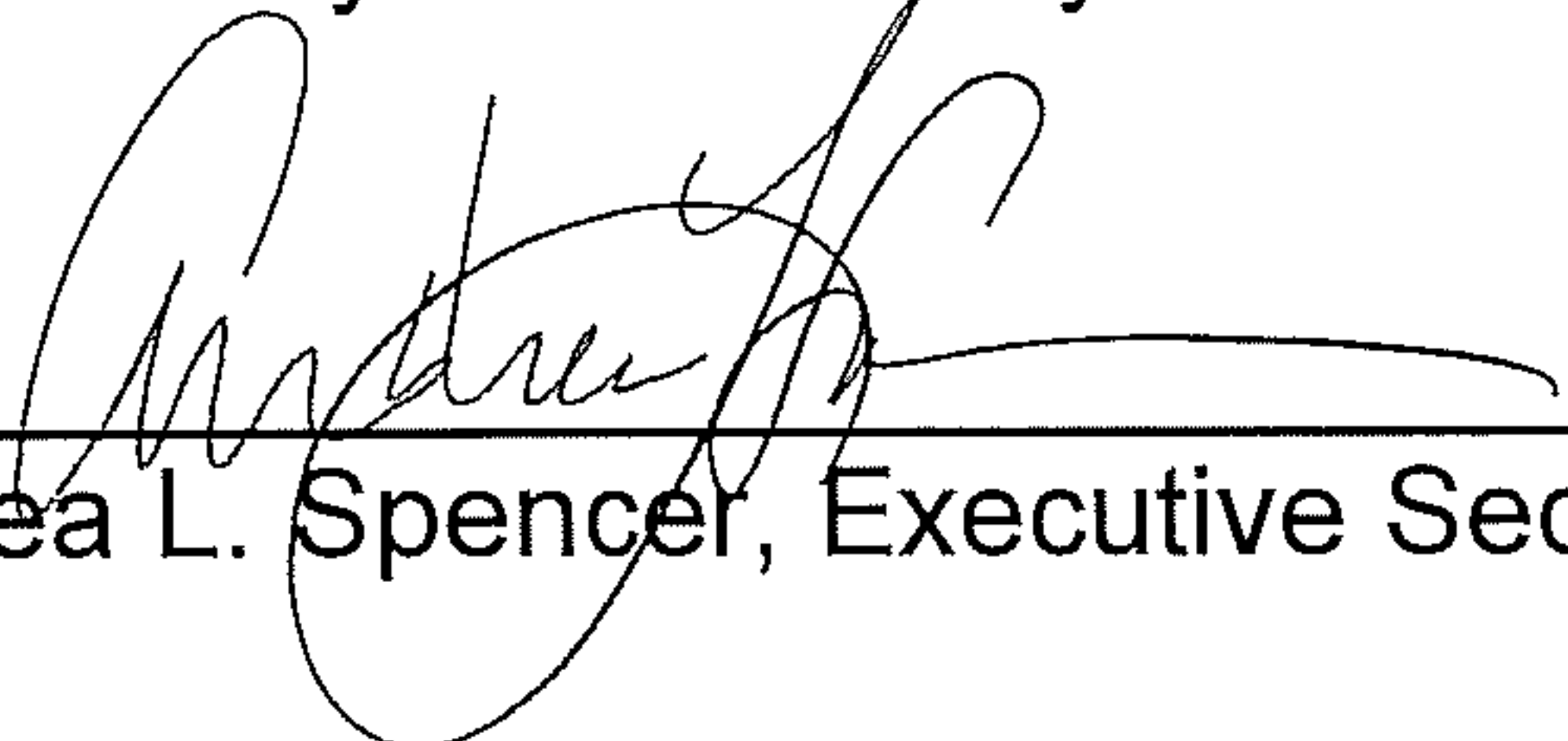
(2) It does not conflict with other City, state and federal codes, regulations and ordinances.

Analysis: The proposed amendments do not conflict with any other regulations. To ensure the City continues having a balance of housing and employment opportunities as identified within the Comprehensive Plan, an annual status report on commercial growth/development will be presented to the Planning Commission to monitor if this exception is still needed.

II. CONCLUSIONS & RECOMMENDATION

Based on the findings above, the Planning Commission concludes that the proposed amendments to the Bremerton Municipal Code Title 20 Land Use Chapter related to Lot Size Averaging, meets the requirements in BMC 20.18.020(d) text amendments, and therefore recommends to the City Council, the adoption of amendments to Title 20.

Respectfully submitted by:



Andrea L. Spencer, Executive Secretary



Jack Wofford, Planning Commission Chair

PROOF OF PUBLICATION

Angela Hoover
City Of Bremerton
345 6 Th Street Suite 100
Bremerton WA 98337

STATE OF WISCONSIN, COUNTY OF BROWN.

I, being first duly sworn on oath, deposes and says: That I am now, and at all times embraced in the publication herein mentioned was the principal clerk of the printers and publishers of KITSAP SUN; that said newspaper has been approved as a legal newspaper by the order of the Superior Court of the County of Kitsap, in which County it is published and is now and has been for more than 6 months prior to the date of the publication hereinafter referred to, published in the English language continually as a daily newspaper in Bremerton, Kitsap County, Washington, a weekly newspaper in Kitsap County, Washington and is now and during all of the said time, was printed in an office maintained in the aforesaid place of publication of said newspaper; that the following is a true text of an advertisement as it was published in regular issues (and not in supplement form) of said newspaper on the following date(s), to wit: And on

06/04/2021

such newspaper was regularly distributed to its subscribers during all of said period.

Subscribed and sworn to before on 06/04/2021

Legal Clerk

Notary, State of WI, County of Brown

My commision expires

Publication Cost: \$15.85

Order No: 5929610

Customer No: 288797

PO #:

of Copies:

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SHELLY HORA
Notary Public
State of Wisconsin

CITY OF BREMERTON, WASHINGTON

ORDINANCE NO. 5422

AN ORDINANCE of the City Council of the City of Bremerton, Washington, amending the Bremerton Municipal Code Title 20 related to Boundary Line Adjustments and Lot Size Averaging.

ORDINANCE NO. 5423

AN ORDINANCE of the City Council of the City of Bremerton, Washington, amending the Bremerton Municipal Code related to "Manufactured Homes" minimum width.

PASSED by the City Council on the 2nd day of June 2021.

The full text of this ordinance is available from the City Clerk's Office, 345 Sixth Street, Suite 100, Bremerton, WA 98337.

June 4, 2021

#5929610

RECEIVED

JUN 09 2021

**OFFICE OF THE
CITY CLERK**